

MICHAEL J. JAURIGUE (SB# 208123)
LIANA M. KHACHATOURIAN (SB# 337126)
michael@jlglawyers.com
liana@jlglawyers.com
JAURIGUE LAW GROUP
300 W. Glenoaks Blvd. Suite 300
Glendale, California 91202
Telephone: 818-630-7280
Facsimile: 888-879-1697

Attorneys for Plaintiff
MIGUEL MARIN

ELIZABETH A. BROWN (SB# 235429)
JENNIFER SVANFELDT (SB# 233248)
CHRISTINA C.K. SEMMER (SB# 270909)
lisabrown@gbgllp.com
jensvanfeldt@gbgllp.com
christinasemmmer@gbgllp.com
GBG LLP
633 West 5th Street, Suite 1500
Los Angeles, CA 90071
Telephone: (213) 358-2810
Facsimile: (213) 995-6382

Attorneys for Defendant
AT&T MOBILITY SERVICES LLC

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MIGUEL MARIN,

Plaintiff,

vs.

AT&T MOBILITY SERVICES LLC and
Does 1 through 50, inclusive,

Defendants.

Case No. 2:23-cv-03747-MWF-MAA

~~PROPOSED~~ STIPULATED
PROTECTIVE ORDER

Judge: Hon. Michael W. Fitzgerald
Dept.: 5A, First Street Courthouse

1 **1. PURPOSES AND LIMITATIONS**

2 Discovery in this action is likely to involve production of confidential,
3 proprietary, or private information for which special protection from public
4 disclosure and from use for any purpose other than prosecuting this litigation may be
5 warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter
6 the following Stipulated Protective Order. The parties acknowledge that this
7 Stipulated Protective Order does not confer blanket protections on all disclosures or
8 responses to discovery and that the protection it affords from public disclosure and
9 use extends only to the limited information or items that are entitled to confidential
10 treatment under the applicable legal principles. The parties further acknowledge, as
11 set forth in Section 13.3 below, that this Stipulated Protective Order does not entitle
12 them to file confidential information under seal; Local Rule 79-5 sets forth the
13 procedures that must be followed and the standards that will be applied when a party
14 seeks permission from the Court to file material under seal.

15 **2. GOOD CAUSE STATEMENT**

16 This action is likely to involve the exchange of records and information
17 referencing or otherwise reflecting certain business practices, internal procedures,
18 sensitive internal investigations, customer and employee information, and other
19 valuable research, development, commercial, financial, technical and/or proprietary
20 information for which special protection from public disclosure and from use for any
21 purpose other than prosecution of this action is warranted. Such confidential and
22 proprietary materials and information consist of, among other things, confidential
23 business or financial information, information regarding confidential business
24 practices, or other confidential research, development, or commercial information
25 (including information implicating privacy rights of third parties), information
26 otherwise generally unavailable to the public, or which may be privileged or
27 otherwise protected from disclosure under state or federal statutes, court rules, case
28 decisions, or common law. Accordingly, to expedite the flow of information, to

1 facilitate the prompt resolution of disputes over confidentiality of discovery
2 materials, to adequately protect information the parties are entitled to keep
3 confidential, to ensure that the parties are permitted reasonable necessary uses of such
4 material in preparation for and in the conduct of trial, to address their handling at the
5 end of the litigation, and to serve the ends of justice, a protective order for such
6 information is justified in this matter. It is the intent of the parties that information
7 will not be designated as confidential for tactical reasons and that nothing be so
8 designated without a good faith belief that it has been maintained in a confidential,
9 non-public manner, and there is good cause why it should not be part of the public
10 record of this case.

11 **3. DEFINITIONS**

- 12 3.1. Action: *Miguel Marin v. AT&T Mobility Services LLC and Does 1*
13 *through 50, inclusive* (C.D. Cal. Case No. 2:23-cv-03747-MWF-
14 MAA).
- 15 3.2. Challenging Party: A Party or Nonparty that challenges the designation
16 of information or items under this Stipulated Protective Order.
- 17 3.3. “CONFIDENTIAL” Information or Items: Information (regardless of
18 how it is generated, stored or maintained) or tangible things that
19 qualify for protection under Federal Rule of Civil Procedure 26(c), and
20 as specified above in the Good Cause Statement.
- 21 3.4. Counsel: Outside Counsel of Record and In-House Counsel (as well as
22 their support staff).
- 23 3.5. Designating Party: A Party or Nonparty that designates information or
24 items that it produces in disclosures or in responses to discovery as
25 “CONFIDENTIAL.”
- 26 3.6. Disclosure or Discovery Material: All items or information, regardless
27 of the medium or manner in which it is generated, stored, or
28 maintained (including, among other things, testimony, transcripts, and

1 tangible things), that is produced or generated in disclosures or
2 responses to discovery in this matter.

3 3.7. Expert: A person with specialized knowledge or experience in a matter
4 pertinent to the litigation who has been retained by a Party or its
5 counsel to serve as an expert witness or as a consultant in this Action.

6 3.8. In-House Counsel: Attorneys who are employees of a party to this
7 Action. In-House Counsel does not include Outside Counsel of Record
8 or any other outside counsel.

9 3.9. Nonparty: Any natural person, partnership, corporation, association, or
10 other legal entity not named as a Party to this action.

11 3.10. Outside Counsel of Record: Attorneys who are not employees of a
12 party to this Action but are retained to represent or advise a party to
13 this Action and have appeared in this Action on behalf of that party or
14 are affiliated with a law firm which has appeared on behalf of that
15 party, and includes support staff.

16 3.11. Party: Any party to this Action, including all of its officers, directors,
17 employees, consultants, retained experts, In-House Counsel, and
18 Outside Counsel of Record (and their support staffs).

19 3.12. Producing Party: A Party or Nonparty that produces Disclosure or
20 Discovery Material in this Action.

21 3.13. Professional Vendors: Persons or entities that provide litigation
22 support services (e.g., photocopying, videotaping, translating,
23 preparing exhibits or demonstrations, and organizing, storing, or
24 retrieving data in any form or medium) and their employees and
25 subcontractors.

26 3.14. Protected Material: Any Disclosure or Discovery Material that is
27 designated as "CONFIDENTIAL."

28 3.15. Receiving Party: A Party that receives Disclosure or Discovery

1 Material from a Producing Party.

2 **4. SCOPE**

3 The protections conferred by this Stipulated Protective Order cover not only
4 Protected Material, but also (1) any information copied or extracted from Protected
5 Material; (2) all copies, excerpts, summaries, or compilations of Protected Material;
6 and (3) any testimony, conversations, or presentations by Parties or their Counsel that
7 might reveal Protected Material.

8 Any use of Protected Material at trial shall be governed by the orders of the
9 trial judge. This Stipulated Protective Order does not govern the use of Protected
10 Material at trial.

11 **5. DURATION**

12 Once a case proceeds to trial, all of the information that was designated as
13 confidential or maintained pursuant to this Stipulated Protective Order becomes
14 public and presumptively will be available to all members of the public, including
15 the press, unless compelling reasons supported by specific factual findings to proceed
16 otherwise are made to the trial judge in advance of the trial. *See Kamakana v. City*
17 *and County of Honolulu*, 447 F.3d 1172, 1180-81 (9th Cir. 2006) (distinguishing
18 “good cause” showing for sealing documents produced in discovery from
19 “compelling reasons” standard when merits-related documents are part of court
20 record). Accordingly, the terms of this Stipulated Protective Order do not extend
21 beyond the commencement of the trial.

22 **6. DESIGNATING PROTECTED MATERIAL**

23 6.1. Exercise of Restraint and Care in Designating Material for Protection.

24 Each Party or Nonparty that designates information or items for
25 protection under this Stipulated Protective Order must take care to limit
26 any such designation to specific material that qualifies under the
27 appropriate standards. The Designating Party must designate for
28

1 protection only those parts of material, documents, items, or oral or
2 written communications that qualify so that other portions of the
3 material, documents, items, or communications for which protection is
4 not warranted are not swept unjustifiably within the ambit of this
5 Stipulated Protective Order.

6 Mass, indiscriminate, or routinized designations are prohibited.
7 Designations that are shown to be clearly unjustified or that have been
8 made for an improper purpose (*e.g.*, to unnecessarily encumber the case
9 development process or to impose unnecessary expenses and burdens
10 on other parties) may expose the Designating Party to sanctions.

11 6.2. Manner and Timing of Designations.

12 Except as otherwise provided in this Stipulated Protective Order
13 (*see, e.g.*, Section 6.2(a)), or as otherwise stipulated or ordered,
14 Disclosure or Discovery Material that qualifies for protection under this
15 Stipulated Protective Order must be clearly so designated before the
16 material is disclosed or produced.

17 Designation in conformity with this Stipulated Protective Order
18 requires the following:

19 (a) For information in documentary form (*e.g.*, paper or electronic
20 documents, but excluding transcripts of depositions or other
21 pretrial or trial proceedings), that the Producing Party affix at a
22 minimum, the legend “CONFIDENTIAL” to each page that
23 contains protected material. If only a portion or portions of the
24 material on a page qualifies for protection, the Producing Party
25 also must clearly identify the protected portion(s) (*e.g.*, by
26 making appropriate markings in the margins).

27 A Party or Nonparty that makes original documents
28 available for inspection need not designate them for protection

1 until after the inspecting Party has indicated which documents it
2 would like copied and produced. During the inspection and
3 before the designation, all of the material made available for
4 inspection shall be deemed “CONFIDENTIAL.” After the
5 inspecting Party has identified the documents it wants copied and
6 produced, the Producing Party must determine which documents,
7 or portions thereof, qualify for protection under this Stipulated
8 Protective Order. Then, before producing the specified
9 documents, the Producing Party must affix the legend
10 “CONFIDENTIAL” to each page that contains Protected
11 Material. If only a portion or portions of the material on a page
12 qualifies for protection, the Producing Party also must clearly
13 identify the protected portion(s) (*e.g.*, by making appropriate
14 markings in the margins).

15 (b) For testimony given in depositions, that the Designating Party
16 identify the Disclosure or Discovery Material on the record,
17 before the close of the deposition, all protected testimony.

18 (c) For information produced in nondocumentary form, and for any
19 other tangible items, that the Producing Party affix in a prominent
20 place on the exterior of the container or containers in which the
21 information is stored the legend “CONFIDENTIAL.” If only a
22 portion or portions of the information warrants protection, the
23 Producing Party, to the extent practicable, shall identify the
24 protected portion(s).

25 6.3. Inadvertent Failure to Designate.

26 If timely corrected, an inadvertent failure to designate qualified
27 information or items does not, standing alone, waive the Designating
28 Party’s right to secure protection under this Stipulated Protective Order

for such material. Upon timely correction of a designation, the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Stipulated Protective Order.

7. **CHALLENGING CONFIDENTIALITY DESIGNATIONS**

7.1. Timing of Challenges.

Any Party or Nonparty may challenge a designation of confidentiality at any time that is consistent with the Court's Scheduling Order.

7.2. Meet and Confer.

The Challenging Party shall initiate the dispute resolution process, which shall comply with Local Rule 37.1 et seq., and with Section 4 of Judge Audero's Procedures ("Mandatory Telephonic Conference for Discovery Disputes").¹

7.3. Burden of Persuasion.

The burden of persuasion in any such challenge proceeding shall be on the Designating Party. Frivolous challenges, and those made for an improper purpose (*e.g.*, to harass or impose unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn the confidentiality designation, all parties shall continue to afford the material in question the level of protection to which it is entitled under the Producing Party's designation until the Court rules on the challenge.

8. **ACCESS TO AND USE OF PROTECTED MATERIALS**

8.1. Basic Principles.

A Receiving Party may use Protected Material that is disclosed or produced by another Party or by a Nonparty in connection with this Action

¹ Judge Audero's Procedures are available at <https://www.cacd.uscourts.gov/honorable-maria-audero>.

1 only for prosecuting, defending, or attempting to settle this Action. Such
2 Protected Material may be disclosed only to the categories of persons and
3 under the conditions described in this Stipulated Protective Order. When the
4 Action reaches a final disposition, a Receiving Party must comply with the
5 provisions of Section 14 below.

6 Protected Material must be stored and maintained by a Receiving Party
7 at a location and in a secure manner that ensures that access is limited to the
8 persons authorized under this Stipulated Protective Order.

9 8.2. Disclosure of “CONFIDENTIAL” Information or Items.

10 Unless otherwise ordered by the Court or permitted in writing by the
11 Designating Party, a Receiving Party may disclose any information or item
12 designated “CONFIDENTIAL” only to:

- 13 (a) The Receiving Party’s Outside Counsel of Record, as well as
14 employees of said Outside Counsel of Record to whom it is
15 reasonably necessary to disclose the information for this Action;
- 16 (b) The officers, directors, and employees (including In-House
17 Counsel) of the Receiving Party to whom disclosure is
18 reasonably necessary for this Action;
- 19 (c) Experts of the Receiving Party to whom disclosure is reasonably
20 necessary for this Action and who have signed the
21 “Acknowledgment and Agreement to Be Bound” (Exhibit A);
- 22 (d) The Court and its personnel;
- 23 (e) Court reporters and their staff;
- 24 (f) Professional jury or trial consultants, mock jurors, and
25 Professional Vendors to whom disclosure is reasonably
26 necessary or this Action and who have signed the
27 “Acknowledgment and Agreement to be Bound” (Exhibit A);
- 28 (g) The author or recipient of a document containing the

information or a custodian or other person who otherwise possessed or knew the information;

- (h) During their depositions, witnesses, and attorneys for witnesses, in the Action to whom disclosure is reasonably necessary provided: (i) the deposing party requests that the witness sign the “Acknowledgment and Agreement to Be Bound” (Exhibit A); and (ii) the witness will not be permitted to keep any confidential information unless they sign the “Acknowledgment and Agreement to Be Bound,” unless otherwise agreed by the Designating Party or ordered by the Court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material may be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order; and
- (i) Any mediator or settlement officer, and their supporting personnel, mutually agreed upon by any of the parties engaged in settlement discussions.

9. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

If a Party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this Action as “CONFIDENTIAL,” that Party must:

- (a) Promptly notify in writing the Designating Party. Such notification shall include a copy of the subpoena or court order;
- (b) Promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this Stipulated Protective Order. Such notification shall include a copy of this Stipulated Protective

Order; and

- (c) Cooperate with respect to all reasonable procedures sought to be pursued by the Designating Party whose Protected Material may be affected.

If the Designating Party timely seeks a protective order, the Party served with the subpoena or court order shall not produce any information designated in this action as “CONFIDENTIAL” before a determination by the Court from which the subpoena or order issued, unless the Party has obtained the Designating Party’s permission. The Designating Party shall bear the burden and expense of seeking protection in that court of its confidential material and nothing in these provisions should be construed as authorizing or encouraging a Receiving Party in this Action to disobey a lawful directive from another court.

10. A NONPARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS LITIGATION

10.1. Application.

The terms of this Stipulated Protective Order are applicable to information produced by a Nonparty in this Action and designated as “CONFIDENTIAL.” Such information produced by Nonparties in connection with this litigation is protected by the remedies and relief provided by this Stipulated Protective Order. Nothing in these provisions should be construed as prohibiting a Nonparty from seeking additional protections.

10.2. Notification.

In the event that a Party is required, by a valid discovery request, to produce a Nonparty’s confidential information in its possession, and the Party is subject to an agreement with the Nonparty not to produce the Nonparty’s confidential information, then the Party shall:

- (a) Promptly notify in writing the Requesting Party and the Nonparty that some or all of the information requested is subject

1 to a confidentiality agreement with a Nonparty;

2 (b) Promptly provide the Nonparty with a copy of the Stipulated
3 Protective Order in this Action, the relevant discovery
4 request(s), and a reasonably specific description of the
5 information requested; and

6 (c) Make the information requested available for inspection by the
7 Nonparty, if requested.

8 10.3. Conditions of Production.

9 If the Nonparty fails to seek a protective order from this Court within
10 fourteen (14) days after receiving the notice and accompanying information,
11 the Receiving Party may produce the Nonparty's confidential information
12 responsive to the discovery request. If the Nonparty timely seeks a protective
13 order, the Receiving Party shall not produce any information in its possession
14 or control that is subject to the confidentiality agreement with the Nonparty
15 before a determination by the Court. Absent a court order to the contrary, the
16 Nonparty shall bear the burden and expense of seeking protection in this Court
17 of its Protected Material.

18 **11. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

19 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
20 Protected Material to any person or in any circumstance not authorized under this
21 Stipulated Protective Order, the Receiving Party immediately must (1) notify in
22 writing the Designating Party of the unauthorized disclosures, (2) use its best efforts
23 to retrieve all unauthorized copies of the Protected Material, (3) inform the person or
24 persons to whom unauthorized disclosures were made of all the terms of this
25 Stipulated Protective Order, and (4) request such person or persons to execute the
26 "Acknowledgment and Agreement to be Bound" (Exhibit A).

1 **12. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
 2 **PROTECTED MATERIAL**

3 When a Producing Party gives notice to Receiving Parties that certain
 4 inadvertently produced material is subject to a claim of privilege or other protection,
 5 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
 6 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
 7 may be established in an e-discovery order that provides for production without prior
 8 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the
 9 parties reach an agreement on the effect of disclosure of a communication or
 10 information covered by the attorney-client privilege or work product protection, the
 11 parties may incorporate their agreement in the Stipulated Protective Order submitted
 12 to the Court.

13 **13. MISCELLANEOUS**

14 13.1. Right to Further Relief.

15 Nothing in this Stipulated Protective Order abridges the right of any
 16 person to seek its modification by the Court in the future.

17 13.2. Right to Assert Other Objections.

18 By stipulating to the entry of this Stipulated Protective Order, no Party
 19 waives any right it otherwise would have to object to disclosing or producing
 20 any information or item on any ground not addressed in this Stipulated
 21 Protective Order. Similarly, no Party waives any right to object on any ground
 22 to use in evidence of any of the material covered by this Stipulated Protective
 23 Order.

24 13.3. Filing Protected Material.

25 A Party that seeks to file under seal any Protected Material must comply
 26 with Local Rule 79-5. Protected Material may only be filed under seal pursuant
 27 to a court order authorizing the sealing of the specific Protected Material at
 28 issue. If a Party's request to file Protected Material under seal is denied by the

1 Court, then the Receiving Party may file the information in the public record
2 unless otherwise instructed by the Court.

3 **14. FINAL DISPOSITION**

4 After the final disposition of this Action, within sixty (60) days of a written
5 request by the Designating Party, each Receiving Party must return all Protected
6 Material to the Producing Party or destroy such material. As used in this subdivision,
7 “all Protected Material” includes all copies, abstracts, compilations, summaries, and
8 any other format reproducing or capturing any of the Protected Material. Whether
9 the Protected Material is returned or destroyed, the Receiving Party must submit a
10 written certification to the Producing Party (and, if not the same person or entity, to
11 the Designating Party) by the 60-day deadline that (1) identifies (by category, where
12 appropriate) all the Protected Material that was returned or destroyed and (2) affirms
13 that the Receiving Party has not retained any copies, abstracts, compilations,
14 summaries or any other format reproducing or capturing any of the Protected
15 Material. Notwithstanding this provision, Counsel is entitled to retain an archival
16 copy of all pleadings; motion papers; trial, deposition, and hearing transcripts; legal
17 memoranda; correspondence; deposition and trial exhibits; expert reports; attorney
18 work product; and consultant and expert work product, even if such materials contain
19 Protected Material. Any such archival copies that contain or constitute Protected
20 Material remain subject to this Stipulated Protective Order as set forth in Section 5.

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1 **15. VIOLATION**

2 Any violation of this Stipulated Order may be punished by any and all
3 appropriate measures including, without limitation, contempt proceedings and/or
4 monetary sanctions.

5
6 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

7
8 DATED: August 18, 2023

JAURIGUE LAW GROUP

9
10 By: Liana Khachatourian

11 Michael J. Jaurigue

12 Liana M. Khachatourian

13 Attorneys for Plaintiff

14 MIGUEL MARIN

15 DATED: August 18, 2023

GBG LLP

16
17 By: /s/ Christina C.K. Semmer

18 CHRISTINA C.K. SEMMER

19 Attorneys for Defendant

20 AT&T MOBILITY SERVICES LLC

21
22 **FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.**

23
24 DATED: August 24, 2023

25
26 Patricia Donahue

27 Patricia Donahue ~~Maria A. Amero~~

28 United States Magistrate Judge

EXHIBIT A**ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

I, _____ [full name], of
 _____ [address], declare under penalty of perjury that
 I have read in its entirety and understand the Stipulated Protective Order that was
 issued by the United States District Court for the Central District of California on
 _____ [date] in the case of *Miguel Marin v. AT&T Mobility
 Services LLC et al.*, C.D. Cal. Case No. 2:23-cv-03747-MWF-MAA. I agree to
 comply with and to be bound by all the terms of this Stipulated Protective Order,
 and I understand and acknowledge that failure to so comply could expose me to
 sanctions and punishment in the nature of contempt. I solemnly promise that I will
 not disclose in any manner any information or item that is subject to this Stipulated
 Protective Order to any person or entity except in strict compliance with the
 provisions of this Stipulated Protective Order.

I further agree to submit to the jurisdiction of the United States District Court
 for the Central District of California for the purpose of enforcing the terms of this
 Stipulated Protective Order, even if such enforcement proceedings occur after
 termination of this action. I hereby appoint _____ [full name]
 of _____ [address and telephone number]
 as my California agent for service of process in connection with this action or any
 proceedings related to enforcement of this Stipulated Protective Order.

Signature: _____

Printed Name: _____

Date: _____

City and State Where Sworn and Signed: _____